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Collective Bargaining in the Public Services of Canada
La négociation collective dans la fonction publique du Canada

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Résumé de l'article

L'article suggère un certain nombre de modifications à la Loi des relations de travail dans la fonction publique différentes des recommandations qui ont été faites récemment par le comité parlementaire chargé de l'étude des relations de travail entre l'État et ses fonctionnaires. Ces recommandations se fondent sur une recherche expérimentale portant sur ce qui délimite les enjeux dans les négociations et le succès du système de solution des conflits selon la Loi entre 1967 et 1975. Elles ne touchent que les quatre points suivants: le la structure de négociation; 2e le champ d'application de la négociation collective ; 3e le processus de règlement des différends ; 4e les organismes d'appoint à la négociation collective.

Au moment de l'entrée en vigueur de la Loi, une classification nouvelle des fonctions est entrée en vigueur. Soixante-douze groupes professionnels qui embrassaient cinq catégories professionnelles formaient les unités de négociation de base en 1967. Parce que les conventions de ces différents groupes sont aujourd'hui fortement uniformisées (principalement à l'intérieur des catégories professionnelles), l'Auteur estime que la négociation serait plus efficace si elle se faisait sur la base des catégories professionnelles au moyen de la négociation en cartel ou par le regroupement des unitésde négociation interprofessionnelles et la négociation d'une convention collective cadre complétée par des arrangements locaux.

Le champ d'application de la négociation est trop resserré pour les unités qui choisissent l'option arbitrale comme moyen de règlement des différends comparativement à celles qui choisissent de recourir à la conciliation et à la grève. De l'avis de l'Auteur, c'est là le motif pour lequel un plus grand nombre d'unités sont passées de l'arbitrage à la conciliation et à la grève. C'est pourquoi aussi il recommande l'établissement d'un champ d'application identique, quelle que soit la voie qui serait choisie.

Au fur et à mesure des quatre rondes de négociation depuis 1967, le mécanisme de solution des conflits est allé en se détériorant. Aussi, outre l'égalisation du champ d'application de la négociation, il conviendrait de modifier le système de sélection des arbitres et de déplacer l'option de choix entre la grève et l'arbitrage après le stade de la conciliation.

Enfin, l'Auteur recommande de renforcer les rôles du Bureau de recherche sur les salaires et du Conseil mixte national de façon à améliorer la qualité des données, d'une part, et de constituer un forum qui favorise, d'autre part, un dialogue suivi et l'étude de la performance du régime de négociation.

Collective Bargaining in the Public Service of Canada

John C. Anderson
and
Thomas A. Kochan

This paper examines the existing system of collective bargaining in the Public Service of Canada and the legislative suggestions of the Parliamentary Committee on Employer-employee Relations in the Public Service in light of the results of two major empirical investigations of collective bargaining in the federal public service of Canada.

In 1967, after almost three years of preparation, a bill providing federal public employees with the right to collective bargaining was given royal assent. The Public Service Staff Relations Act (PSSRA), along with amendments to other relevant legislation was designed as:

> ...a measure to provide for the establishment of a system of collective bargaining applicable to employees of the public service of Canada, and for the resolution of disputes that may arise in the negotiation or conclusion of collective agreements applicable to such employees; to establish a process for the presentation of grievances of employees arising in conjunction with their employment, and to establish a system for the adjucation of grievances of employees; to provide for the establishment of a board, to be known as the Public Service Staff Relations Board, which shall be responsible for the administration of said measure, and to provide further to the constitution and appointment of such authorities, officers, and employees as required in connection with the administration of said measure.[2]

Thus, a framework was established to provide for the negotiation and administration of collective agreements for federal employees.

Since the passage of that legal framework 104 bargaining units have

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[2] Jacob Finkelman, «Public Service Staff Relations Act,» *Canadian Labour*, (September, 1968), p. 28.

negotiated some 449 agreements with Treasury Board and the « separate » employees in the federal sector.[3] During the past few years, this system has come under scrutiny and a number of recommendations for changes in public policy have been advanced. Specifically, Jacob Finkelman, chairman of the Public Service Staff Relations Board has issued a multi-volume report[4] which served as the basis for the final recommendations of the Parliamentary Committee on Employer-Employee Relations in the Public Service.[5] The purpose of this paper is to examine the existing system and the legislative suggestions of that committee in light of the results of two major empirical investigations of collective bargaining in the federal public service of Canada. The first study examined the determinants of the outcomes of contracts negotiated during the first four rounds of bargaining under the PSSRA.[6] The second assessed the performance of the impasse resolution procedures across these four rounds.[7] We will draw heavily on the results of these two studies in developing our recommendations for changes in public policy. In doing so we will comment on the merits and limitations of the Finkelman Report and the Parliamentary Committee recommendations.

It is not our intention to deal with all recommendations of the committee or for that matter all aspects of the system[8] but rather to

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[3] Government of Canada, *Report to Parliament of the Special Joint Committee on Employer-Employee Relations in the Public Service* (Ottawa: Information Canada, 1976).

[4] Jacob Finkelman, *Employer-Employee Relations in the Public Service of Canada* (Ottawa: Information Canada, 1974); for a rationale behind the report and synopsis see, J. Finkelman, « Report on Employer-Employee Relations in the Public Service of Canada, » *Relations Industrielles,* Vol. 30, no. 1, 1975, pp. 155-119.

[5] Government of Canada, *op. cit.*

[6] John C. Anderson, *Characteristics of the Environment, Organization, and Bargaining Process in Relation to Bargaining Outcomes in the Federal Public Service of Canada,* Final Report to Treasury Board Secretariat, Government of Canada, Ottawa, March, 1976. This study and the one below are based on an analysis of the experiences of 49 of the 72 bargaining units negotiating with Treasury Board. Only units with over 500 members were examined to ensure availability of other data. This results in an underrepresentation of units in the scientific and professional category.

[7] John C. Anderson and Thomas A. Kochan, « Dispute Resolution in the Canadian Federal Service: Impacts on the Bargaining Process, » *Industrial and Labor Relations Review,* Vol. 30, No. 3, 1977.

[8] For more specific descriptions of the various aspects of the federal industrial relations system see: Harold W. Arthurs, *Collective Bargaining by Public Employees in Canada: Five Models* (Ann Arbor: Institute of labor and Industrial Relations, 1971); Shirley Goldenberg, « Dispute Settlement in the Public Sector: The Canadian Scene, » *Relations Industrielles,* vol. 28, no. 2, 1973, pp. 267-292; A. Aggarwal, « Adjudication of Grievances in the Public Service of Canada, » *Relations Industrielles,* Vol. 28, no. 3,

focus more intensively on four features of the industrial relations system: (1) the bargaining structure, (2) the scope of bargainable issues, (3) the dispute resolution process, and (4) the complementary institutions to collective bargaining. Furthermore, our recommendations are based only on the experience of units negotiating with the Treasury Board acting as the employer and not any of the « separate » employers as defined in Part II of schedule I of the PSSRA.

BARGAINING STRUCTURE

Concurrently with the development of the PSSRA, the Public Service Commission (then the Civil Service Commission) was charged with the responsibility of establishing a new government wide job classification system. The seventy-two occupational groups defined within this plan were classified into five occupational categories — operational, administrative support, technical, administrative and foreign service, and scientific and professional. The occupational groups then became the statutorily defined bargaining units. This system of a multitude of occupationally (craft) based bargaining units was designed to recognize the unique interests of each group and their right to pursue those interests through collective bargaining.

Finkelman's report recommended the (1) merger of existing bargaining units where a single bargaining agent represented all units or (2) coalition bargaining in situations where more than one bargaining agent represented the units involved so long as it was mutually agreed upon by the union(s) and the employer.[9] These recommendations were not adopted, however, by the parliamentary committee.

The results of our research show that a substantial standardization of provisions of collective agreements exists across all occupational

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1973, pp. 497-547; Robert Des Lauriers and N. Parekh, « Productivity and Collective Bargaining in the Public Service of Canada, » *Proceedings of the Twenty-fourth Annual Meetings of the Industrial Relations Research Association* (Madison, Wisconsin: Industrial Relations Research Association, 1972), pp. 221-226; A. Kliengartner, « Collective Bargaining by Professionals in Federal Employment in Canada, » *Proceedings of the Twenty-fourth Annual Meetings of the Industrial Relations Research Association* (Madison, Wisconsin: Industrial Relations Research Association, 1972), pp. 379-386; and A. G. Gillespie, « The Public Service Staff Relations Board, » *Relations Industrielles,* vol. 30, no. 4, 1975, pp. 628-640. Other relevant research is cited below.

[9] J. Finkelman, *Employer-Employee Relations in the Public Service of Canada, op. cit.*

groups and especially within each of the five major occupational categories. It appears that all agreements have a series of basic provisions and that other clauses vary by occupational category. For example whereas operational groups have contracts which include various types of pay supplements for the type of work performed (e.g., driving duty), the scientific and professional category have a series of leave provisions related to education and career development. Some variance from the norm exists for each category. This fact in itself suggests that the groups have not pursued «unique» interests but rather that bargaining agents have attempted to maximize benefits across groups (but possibly within occupational categories) and to minimize internal political problems for union leaders that inevitably arise out of «coercive comparisons.» Several policy implications arise from these conclusions. Collective bargaining could more efficiently be carried out on an occupational category basis. Alternatively, a master agreement could be negotiated for issues with service wide applicability supplemented by subsidiary agreements at the occupational category level. Merger of existing bargaining units or coalition bargaining would present few problems in the scientific and professional, administrative and foreign service, and administrative support categories where one or a few unions represent all groups and employee interests are similar. However, it is less likely to succeed in the technical and operational categories where many unions, both private and public sector, with major differences in philosophy exist. Thus, any change in the law must allow for flexibility of choice.

The major costs of this type of consolidation would be to (1) increase the potential scope and impact of any single work stoppage or arbitration award, and (2) move the level of bargaining further away from the rank and file and the department administrators affected by the agreement. A two tiered system with occupational supplements can deal with the second problem quite effectively, however, the first negative effect is less easily overcome. The redundant bargaining and whipsawing encouraged and institutionalized in the current structure, however, argue for the need for some structural reform along the lines recommended above.

THE SCOPE OF BARGAINABLE ISSUES

One of the most contentious issues in public sector collective bargaining has been related to what issues should be considered mandatory subjects of bargaining. This has been especially true with regard to the

« merit » principle usually enforced by a civil service commission.[10] At present, the PSSRA provides that negotiations may not deal with any issues upon which agreement would require the alteration of existing legislation, other than for the purpose of appropriation of funds. In effect, this seriously limits the scope of bargainable topics, as it removes from the arena of collective bargaining such items as pensions (Public Service Superannuation Act), appointment, appraisal, promotion, demotion, transfer, layoff and release of employees (Public Service Employment Act), workmen's compensation (Government Employee's Compensation Act), and those subjects of the Government Vessel Discipline Act. In addition, the right and authority to determine organization, to assign duties, and to classify positions remains with the employer. Thus, many issues central to collective bargaining in the private sector are outside the domain of collective bargaining in the public service.

Further limitations to the scope of bargaining exist depending on the dispute resolution method chosen by the bargaining unit. Arbitrators are only allowed to make awards on rate of pay, hours of work, leave entitlements, standards of discipline and other terms and conditions related directly thereto. Moreover, no issues not requested as a subject of an award can be dealt with by the arbitrator. No such restrictions exist on the conciliation board.

Neither Finkelman's report nor the report of the Parliamentary Committee have recommended much substantive change in the legislation governing scope of bargaining. Instead, the committee recommends that the role of the Public Service Commission, its relationship to Treasury Board, the PSSRB, government departments and agencies be the subject of a task force study. Thus, no immediate changes are foreseen with subjects under its control. Two issues are isolated to be made bargainable; the relative worth of jobs within an occupational group (one aspect of classification) and the impact and notice of technological change. However, no strike or lockout may result from negotiation over these issues. Furthermore, if these issues are written into collective agreement they are to be considered special agreements with their own duration.

It is difficult to assess the scope of bargaining or these particular recommendations within the framework of our research. However,

[10] See for example, F. Helburn and N. Bennett, « Public Employee Bargaining and the Merit Principle, » *Labor Law Journal,* vol. 23, no. 9, 1972, pp. 618-629.

several issues and consequences of a narrow scope of bargaining lead to important implications for public policy.

After the third round of negotiations, the majority of collective agreements contained provisions covering all issues considered bargainable. Furthermore, since the inception of bargaining few clauses have been changed or added to the contracts (major exceptions being: maximum vacations, standby pay, shift differential, removal of special leave from administrative support category, and wording changes in existing provisions). This leaves the bargaining units in a situation where the only trade-offs possible for wage demands are wording changes in non-wage provisions. This results in tremendous pressure on bargaining agents to obtain wage increases through whatever means necessary (strike, politics, etc.). For this reason alone more serious consideration should be given to increasing the scope of bargaining.

Conspicuous by its absence in either the Finkelman or the Committee reports is a discussion of differences in the scope of bargaining under the arbitration and conciliation board/strike routes. Barnes and Kelley have noted that arbitrators have denied jurisdiction over many issues presented to the tribunal under the *directly related thereto* portion of the section 70(1) of the PSSRA. This has had the effect of narrowing even further the number of issues considered arbitrable. Thus, in the last two rounds of bargaining there has been a significant switch from the arbitration to the conciliation board/strike routes. The different scope of bargaining in the two routes may partially account for this switching. Therefore, one possible solution to the perceived inadequacies of the arbitration route is to make the same issues arbitrable as bargainable. A more far reaching, although probably less advisable, change would be to remove the restriction on arbitrators for only dealing with issues submitted to arbitration. These two changes would clearly increase the comparability of the routes.

DISPUTE RESOLUTION

The PSSRA[11] provides for two alternate dispute «settlement processes», the conciliation board/strike or the compulsory arbitration route. One of the two methods must be selected prior to giving notice to bargain to the employer and can only be altered before notice is given for negotiation of a subsequent contract. The selection comes into effect

[11] The majority of this section is based on J. Anderson and T. Kochan, *op. cit.*

when notice is served. For those bargaining units which select the conciliation board/strike route, employees or classes of employees may be designated as essential to the safety and security of the public and as such are not allowed to partake in any legal strike. The two alternate methods were originally established to provide an alternative for the weaker bargaining units without the economic power to strike.

Several recommendations were made by the parliamentary committee in reference to dispute resolution. None of them, however, make any substantive change in the current procedure. In order to protect the public interests, the Committee recommended that while parliament is not in session the Governor-General in Council should have the right to suspend the right to strike. Moreover, an inquiry commission may be appointed in the case of an impasse. It is also recommended that the definition of designated employee be extended to include situations where there is a threat to public health, ongoing experiments, physical treasures and the level of temperature in public buildings. In addition, designations are to be permanent rather than negotiated at each round of bargaining and lists of designated employees are to be filed and updated regularly with the PSSRB. Finally, prosecution for unlawful activities are to be strengthened and violations are to be heard before the PSSRB. However, it was also recommended that a special commission be established with the power to independently initiate legal action against employees, employee organizations, or employers where violations have occurred. Thus, the proposed policy changes appear to be designed to strengthen or reinforce the limits on the right to strike in the existing system.

Our research suggests several problems with the existing dual impasse resolution system which are not dealt with within the report of proposed changes to the PSSRA. The following general conclusions were reached: (1) there is a significant trend of switching from the arbitration to the conciliation strike routes; (2) 69% of those who have switched did so after having an arbitral award issued in the previous round of bargaining; (3) there was a significant decrease across the four rounds of bargaining in settlements reached without resort to third party assistance, 79.4%, 49.2%, 44.9% and 21.9% respectively; (4) there was a significant increase in the percentage of units settling in arbitration over the four rounds of bargaining, 3.4%, 32.5%, 33.3% and 53.8% respectively; (5) the conciliation and mediation steps were much more effective in reaching settlements under the conciliation board/strike route than under the arbitration route; (6) there was an increase in the use of the strike over time, 1.5%, 2.0%, 6.1% and 9.4% respec-

tively;[12] (7) the probability of going to impasse was greater if the bargaining unit had gone to impasse in the previous round of bargaining (narcotic effect); and (8) wage settlements under arbitration decisions tended to be within a narrower percentage range than those settled without arbitration.

All of these results indicate a marked deterioration of the dispute resolution system has occurred over time. Clearly, some action should be taken to deal with the underlying causes of the deterioration. First, it appears that there is some disillusionment with the arbitration procedures. The difference in the range of bargainable issues has been suggested as one explanation for this phenomenon. The unwillingness of arbitrators to deal with innovative issues, to break from patterns established by themselves or other arbitrators or to make wage settlements outside of a narrow percentage range, may all contribute to the switching behavior. Barnes and Kelley have also suggested that time delays in issuing arbitral awards, lack of rationale used in arriving at awards, and the scope of judicial review of awards also contribute to the dissatisfaction with the arbitration procedure.[13] Thus, if one objective is to rekindle interest in the arbitration route we would suggest that: (1) the scope of bargaining between the two routes be made equal; and (2) rather than permanent panels of arbitration tribunal members, the arbitrator or tripartite board should be selected *ad hoc* at the time of impasse, with the power to deal with all issues relevant to the dispute. These changes may help to alleviate problems associated with lack of innovativeness and scope of bargainable issues.

In addition to revitalizing the arbitration route, some steps need to be taken to reverse the general deterioration of the ability of the dispute resolution system to achieve settlements without the resort to an impasse or without going all the way through the procedures to an arbitration award or a strike. The choice of an impasse procedure and the decision of whether or not to use any procedure are usually considered strategic alternatives available to the parties in their arsenal of bargaining weapons. The uncertainty associated with not knowing the final stage of settlement places pressure on the parties to settle in the early stages of the impasse procedure. Moreover, where the costs (not

[12] When only considering those units selecting the conciliation board/strike route rather than all units, the percentages vary slightly; 11.1%, 11.1%, 30.0%, 16.7% across the four rounds respectively.

[13] L.W.C.A. Barnes and L. A. Kelly, *Interest Arbitration in the Federal Public Service of Canada* (Kingston, Ontario: Queen's University, Industrial Relations Centre, 1975).

financial) of going all the way to the final step (i.e., strike or arbitration) are high, there is a greater incentive to settle without impasse or at least to settle prior to this final step. If the above contentions are true, then it appears that the selection of final dispute resolution method prior to the commencement of bargaining may be a contributing factor to the increased usage of arbitration tribunals and the reliance on third in general. Therefore, allowing the selection of arbitration or the right to strike after the initial conciliatory or mediation steps may decrease the reliance on arbitration and increase the inducement for the parties to settle on their own.[14]

It should be noted that this alternative presently exists under section 89 of the PSSRA, which allows the parties *by mutual consent* to make the report of a conciliation board binding prior to its issuance. However, this provision has never been used. This may be a result of the reluctance of one or both parties to make such an agreement.

A final note on the methods of dispute resolution pertains to the right to strike. The report of the Parliamentary Committee recommends no removal of the right to strike while at the same time it suggests significantly increasing the numbers and types of designations allowed under the Act. Furthermore, it strengthens the penalties for violations by designated employees. In many cases, more than 90% of the employees of a given bargaining unit are designated. This seriously circumscribes any right to strike or the ability to use that right. Furthermore, this policy has resulted in only the most powerful units (those able to impose the greatest costs on the employer and the public), with the necessary financial strength to survive a strike (and the fines) actually going on strike. Thus, in contrast to the policies in some U.S. states where the right to strike is granted to nonessential but withheld from essential services, the PSSRA has fostered strikes in essential services.[15] More attention needs to be paid to what proportion of indi-

[14] This alternative is now available to public employees in British Columbia and New Brunswick.

[15] The definition of safety and security of the public is difficult at best. However, designations have not seemed to follow any systematic pattern in the past and the recommendations contained in the committee report blur the distinction even further. It is interesting to note that no employees of the post office appear to be considered essential while these recommendations would result in significant designations for the heating, power, and stationary group. It is unclear that temperature levels in public buildings are more important to the safety and security of the public than the economic dependence of many individuals and organizations on the mail. This is not to say that either should have a particular level of designations, but rather that the definition of designatable employee needs to be specified further.

viduals constitutes a reasonable component in order to protect the safety and security of the public. The policy recommended by the Committee would make the strike only a token right.

COMPLEMENTARY INSTITUTIONS TO COLLECTIVE BARGAINING

The federal industrial relations system includes two institutions which act in conjunction with the collective bargaining process: The Pay Research Bureau and The National Joint Council.

Pay Research Bureau[16]

The Pay Research Bureau (PRB) was established in 1957 as a unit of the Civil Service Commission but with the passage of the PSSRA it was transferred under the administrative jurisdiction of the PSSRB. This move was designed to facilitate and accentuate the independence and objectivity of the Bureau. The PRB's mandate is to collect information on rates of pay, employee earnings, conditions of employment and related practices both inside and outside the public service in order to meet the needs of the parties to collective bargaining.[17] The objectives are implemented and achieved through the Advisory Committee on Pay Research whose role it is «to advise on the scope, priority, and other aspects, of the Bureau's work, in preparation for collective bargaining».[18] The Committee is comprised of representatives of the employers and employee organizations. Through this Committee, an attempt is made to assure objectivity in sampling and analysis of data from comparable groups in the private sectors.

The Committee recommended that the PRB continues in its present form and continues to perform its present functions. However, the Bureau is to be defined and included within the PSSRA and is to take action to gain more visibility for its activities, methodologies, information and reports. No other recommendations were forwarded by the Parliamentary Committee.

The notion of comparability of public employees with employees in similar private sector occupations is deeply imbedded in the philo-

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[16] For a more complete discussion of the Pay Research Bureau see, Felix Quinet, «The Role of Research in Centralized Bargaining: The Pay Research Bureau», *Relations Industrielles*, Vol. 26, no. 1, 1971, pp. 202-212.

[17] Ibid., p. 206.

[18] Ibid., p. 207.

[18] Ibid., p. 207.

sophy of federal wage determination. Comparability is a major criteria delineated for arbitrators in making their decisions.[19] A heavy responsibility lies with the PRB in providing data on comparability to the parties for collective bargaining purposes. The burden is even stronger when private sector wage data are provided by the PRB. Since private sector comparable wages were found to be the strongest independent predictor of occupational group wage levels.[20] Moreover, having a comparable group (defined as the availability or existence of PRB reports) was significantly related to the stage at which bargaining units settled within the impasse procedure and whether they went to impasse or not.[21] Given the importance of the data it is obviously imperative to guarantee the objectivity and independence of the Pay Research Bureau. Therefore, further evaluation of the Bureau and its activities should be under taken at this time in an attempt to further specify its procedures and the desired role of the PRB data in actual negotiations.

Fogel and Lewin have raised several criticisms of the use of wage comparability as the only criteria in making comparisons between the private and public sectors.[22] Not only wages but job security, hours of work and other benefits differ between these two sectors. Thus in order to provide more accurate comparative data, the PRB should expand its survey coverage to a total compensation approach rather than being limited to wages. However, it must be recognized that instituting this recommendation would accentuate even further the need for objectivity on the part of the Bureau and on effective consultative mechanism for making decisions of appropriate samples and survey coverage.

National Joint Council[23]

Not all terms and conditions of employment are established by collective bargaining or under existing legislation (PSEA or PSSA). The joint consultation process also plays an important role in the Public Service of Canada. In 1944, the National Joint Council (NJC) was established as a consultative body by an Order-in-Council. The constitution of this body provides that at no time shall the number of em-

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[19] Public Service Staff Relations Act, section 68.

[20] J. Anderson, *op. cit.*, p. 80.

[21] J. Anderson and T. Kochan, *op. cit.*, p. 20.

[22] W. Fogel and D. Lewin, «Wage Determination in the Public Sector,» *Industrial and Labor Relations Review*, Vol. 27, no. 3, 1974, pp. 410-431.

[23] For a more complete description of the National Joint Council see, L.W.C.S. Barnes, *Consult and Advise: A History of the National Joint Council of the Public Service of Canada, 1944-1974*, (Kingston, Ontario: Queen's University, 1975).

ployer representatives exceed the number of representatives of the employee organizations. The body is co-chaired by an elected representative of the employee side and an appointed representative of the government who alternately officiate at meetings of the Council.

Meetings are convened quarterly to cover the necessary business. In addition to the quarterly meeting of the total membership of the Council, an Administrative Committee, composed of the co-chairmen and vice-chairman of the NJC meets once a month and is empowered to take action on matters requiring attention before the next full meeting.

With the enactment of the PSSRA in 1967, the issues to be considered by this Council were somewhat circumscribed. Until that time only pay had been removed from the consultation list. All arbitrable issues — rates of pay, hours of work, leave entitlement, discipline and other terms and conditions related directly thereto — are now excluded from the consultation procedure. Classification is also excluded. Furthermore, those issues which are the subject matter of collective bargaining have been removed from its jurisdiction. With these sets of exclusions, it is questionnable as to what subjects are within the framework of the consultative mechanism. It has become implicitly accepted that bargainable issues which have been withdrawn from the bargaining table because of their service wide applicability (rather than unit specificity) are reasonable matters to be considered within this forum.

No recommendations were presented by the Committee regarding this body. Although our research did not examine the role or impact of this organization on the collective bargaining process directly, it is clear that the functions of this Committee will need to be expanded or else it will eventually become a meaningless forum. While one alternative might be to allow the Committee to succumb to its natural demise, this type of joint structure could, if properly utilized, serve several critical functions. It could provide a forum for broad ranging discussion and critique of the bargaining system one step removed from the day to day battles of the interest groups. It might, for example, study the very troublesome problem of innovation by serving as a sounding board for proposals that would break new ground or that would significantly alter the employment relationship. Union-management committees have proved useful in certain limited situations in the U.S. for dealing with complex problems requiring in-depth study and planning, e.g., adjustment to technological change, experiments in

improving the quality of work and/or productivity, job evaluation and rate restructuring.

Thus we would see this Committee as having two basic functions: (1) the generation and evaluation of new ideas and proposals that may help the bargaining and arbitration system adjust to new pressures and problems as they surface, and (2) a long term and continuous policy evaluation function in which the interested parties can discuss policy alternatives in an effort to build greater consensus regarding the administration of the current procedure.

The Committee might even go one step further by engaging in studies of specific « problematic » bargaining relationships that now exist or that develop within the federal service. For example, several of the bargaining relationships have become « addicted » to the use of impasse procedures or to strikes since 1967. Perhaps a joint Committee could investigate some of the factors causing this pattern and could, because of its representational structure, induce changes by the union and employer representatives that would help them to break out of this pattern.

SOME CAVEATS AND CONCLUSIONS

This paper has examined the existing industrial relations policy and the recommendations of the Parliamentary Committee with respect to the structure of bargaining, the scope of bargaining, dispute resolution methods, and the complementary institutions to the collective bargaining process. Alternative policy recommendations were made based on a study of collective bargaining in the federal public service of Canada. Some caveats must be added to our discussion and to the alternate policy recommendations presented here.

First, we have not dealt with all issues which have been subjects of discussion in the report of the Parliamentary Committee. The topics of managerial and confidential exclusions, incompetence, incapacity and disciplinary action, union voting procedures, and casual employees have not been discussed. Our focus was purposely limited to the more substantive concerns surrounding the collective bargaining process.

Second, and more importantly, the recommendations on each of the four domains presented here cannot be taken in isolation. That is, changes in policy regarding one issue will have an effect on other issues whether or not they are altered. Similarly, changes in all four aspects of the system will have strong interactive effects.

For example, the system of collective bargaining in the federal public service can be characterized as a series of internal pattern setting and following relationships which occur within and across rounds of bargaining. This is mainly because one employer is dealing with many bargaining units. Furthermore, the majority of these units are represented by two unions, the PSAC and PIPS.[24] Thus, an increase in the scope of bargaining would result in hard bargaining to set a new standard (or pattern) followed by a diffusion of those gains to other bargaining units (tempered by internal relativity differences). However, if bargaining was at the occupational category level (a change in bargaining structure) the process by which benefits invariably spread to all groups would be done immediately and thus, it would constitute a change in the bargaining process and outcomes. Therefore, the diffusion of new gains (or retrenchments) would be more rapid and less whipsawing between groups would occur. In addition, changing the time of specification of impasse resolution method may induce more good faith bargaining without a resort to impasse.

A discussion of the interactions and possible consequences of all bargaining structure and scope of bargaining (especially under arbitration) may make the National Joint Council redundant or at least demand a re-evaluation of its role.

A discussion of the interactions and possible consequences of all recommendations is beyond the scope of this paper. Moreover, a delineation of the advantages and disadvantages of each of these changes to the parties involved must be left to a debate of the unions and the employer.[25] The suggestions presented here are made with the objective of promoting increased good faith bargaining between the parties with a minimum of intervention, unless the public interest is truly threatened (another topic of debate).

The evaluation of public policy and recommendations for changes to public policy are an integral part of the policy-making process. The specification of public policy alternatives and the choice between alternatives should be based on sound empirical evidence related to experiences under the policy in question. To date, the evaluation and legislative change recommendations have been based on the investigations of Jacob Finkelman, the chairman of the PSSRB, as well as briefs

[24] PSAC is the Public Service Alliance of Canada and PIPS is the Professional Institute of the Public Service of Canada.

[25] For example see the policy statements of the Public Service Alliance of Canada on coalition bargaining, *The Civil Service Review,* May 1976, pp. 10-11.

presented by interested parties. Evaluation research studies have shown that programs (or policy) evaluated by individuals intimately familiar with the program tend to be evaluated more positively (or more negatively in the case of unions; it depends on the hidden agendas of the party in question) and less change is suggested than when evaluated by outside parties.[26] These interpretations appear to be valid for the present situation. That is, the changes proposed by the Parliamentary Committee on Employer-employee Relations appear to focus on making the existing policy more *administratively* feasible as well as increasing the powers available to the PSSRB for ensuring adherence to the provisions of the Act.[27] Conversely, we believe an evaluation of this (or any) labor relations statute should ask the question « How can we make the law more workable for the process of collective bargaining? » or « What changes will best help to achieve our policy objectives? » These questions can only be adequately answered with systematic empirical data concerning the relevant aspects of the policy under question.

La négociation collective dans la fonction publique du Canada

L'article suggère un certain nombre de modifications à la Loi des relations de travail dans la fonction publique différentes des recommandations qui ont été faites récemment par le comité parlementaire chargé de l'étude des relations de travail entre l'État et ses fonctionnaires. Ces recommandations se fondent sur une recherche expérimentale portant sur ce qui délimite les enjeux dans les négociations et le succès du système de solution des conflits selon la Loi entre 1967 et 1975. Elles ne touchent que les quatre points suivants: 1e la structure de négociation; 2e le champ d'application de la négociation collective; 3e le processus de règlement des différends; 4e les organismes d'appoint à la négociation collective.

Au moment de l'entrée en vigueur de la Loi, une classification nouvelle des fonctions est entrée en vigueur. Soixante-douze groupes professionnels qui embrassaient cinq catégories professionnelles formaient les unités de négociation de base en 1967. Parce que les conventions de ces différents groupes sont aujourd'hui fortement uniformisées (principalement à l'intérieur des catégories professionnelles), l'Auteur estime que la négociation serait plus efficace si elle se faisait sur la base des catégories professionnelles au moyen de la négociation en cartel ou par le regroupement des unités

[26] G. Gordon, « Evaluation Research » in Inkeles, A., Coleman, J. and Smelser, N. (eds.), *Annual Review of Sociology* (Palo Alto, Cal.: Annual Reviews, Inc., 1975), pp. 339-362.

[27] This argument is partially supported by the fact that the interim report of the Parliamentary Committee established the PSSRB, as a full-time rather than a part-time board.

de négociation interprofessionnelles et la négociation d'une convention collective cadre complétée par des arrangements locaux.

Le champ d'application de la négociation est trop resserré pour les unités qui choisissent l'option arbitrale comme moyen de règlement des différends comparativement à celles qui choisissent de recourir à la conciliation et à la grève. De l'avis de l'Auteur, c'est là le motif pour lequel un plus grand nombre d'unités sont passées de l'arbitrage à la conciliation et à la grève. C'est pourquoi aussi il recommande l'établissement d'un champ d'application identique, quelle que soit la voie qui serait choisie.

Au fur et à mesure des quatre rondes de négociation depuis 1967, le mécanisme de solution des conflits est allé en se détériorant. Aussi, outre l'égalisation du champ d'application de la négociation, il conviendrait de modifier le système de sélection des arbitres et de déplacer l'option de choix entre la grève et l'arbitrage après le stade de la conciliation.

Enfin, l'Auteur recommande de renforcer les rôles du Bureau de recherche sur les salaires et du Conseil mixte national de façon à améliorer la qualité des données, d'une part, et de constituer un forum qui favorise, d'autre part, un dialogue suivi et l'étude de la performance du régime de négociation.